

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
V.) No. 2:08-CR-58
)
PAMELA R. MILLER)

REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b), and with the consent of defendant and the attorneys, the undersigned conducted a plea hearing in this case on March 3, 2009. A plea agreement dated February 23, 2009, was filed as Document 10. A written consent for the plea hearing to be conducted by the magistrate judge will be filed shortly.

At the hearing, and in conformance with the plea agreement, defendant moved to withdraw her not guilty plea to Counts Two and Four and enter a plea of guilty to the lesser included offense related to Count Two, i.e., a conspiracy to manufacture 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(b).

On the basis of the record made at the hearing, I find the defendant is fully capable and competent to enter an informed plea; her plea is made knowingly and with full understanding of each of the rights waived by her; her plea is made voluntarily and free from any force, threats, or promises, apart from any promises in the plea agreement; the defendant understands the nature of the charges and penalties provided by law; her plea has a sufficient

basis in fact; and defendant understands the final decision on whether to accept the plea agreement will be deferred until Senior District Judge Jordan has reviewed the Presentence Report.

Therefore, I **RECOMMEND** (1) that defendant's motion to withdraw her not guilty plea to Counts Two and Four be granted; and (2) that defendant's plea of guilty to the lesser included offense related to Count Two, conspiracy to manufacture 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(b), be accepted, subject to the court's review of the Presentence Report.

I further **RECOMMEND** that defendant remain in custody until sentencing in this matter. Defendant understands that acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge, and that a sentencing date will be scheduled by the district judge after review of this report and recommendation.

Respectfully submitted:

s/ Dennis H. Inman
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to *de novo* review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten days after the plea hearing. Failure to file objections within ten days constitutes a waiver of any further right to challenge the plea of guilty in this matter. See 28 U.S.C. §636(b).